

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ROBERT CSECH,

Plaintiff,

v.

JOHN PERRY, *et al.*,

Defendants.

3:13-cv-00289-MMD-VPC

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

July 15, 2014

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. Before the court is plaintiff's motion for summary judgment (#16). Briefing was stayed on the motion pursuant to the court's order dated February 26, 2014 (#26). However, based on the record before the court it is now recommended that plaintiff's motion for summary judgment (#16) be denied without prejudice and with leave to refile.

The District Court adopted and accepted (#34) the report and recommendation of the Magistrate Judge (#28) in full. Therefore, defendants' partial motion to dismiss (#13) has been granted, and the claims against defendant Nathan Hastings have been dismissed with prejudice and without leave to amend. *Id.* The claims against defendant E.K. McDaniel have been dismissed without prejudice, and plaintiff has been given thirty days to file an amended complaint. *Id.* If plaintiff chooses not to file an amended complaint, this action will continue only against the remaining defendants John Perry, Lisa Walsh, and J. Palmer. *Id.*

1 In light of the court's ruling and regardless of whether plaintiff files an amended complaint,  
2 portions of plaintiff's motion for summary judgment are now moot. Therefore, it is recommended  
3 that plaintiff's motion for summary judgment (#16) be denied without prejudice and with leave to  
4 refile, if necessary.  
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6 The parties are advised:


7 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice,  
8 the parties may file specific written objections to this Report and Recommendation within fourteen  
9 days of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and  
10 Recommendation" and should be accompanied by points and authorities for consideration by the  
11 District Court.  
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13 2. This Report and Recommendation is not an appealable order and any notice of appeal  
14 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's judgment.  
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16 **IV. RECOMMENDATION**

17 **IT IS THEREFORE RECOMMENDED** that plaintiff's motion for summary judgment  
18 (#16) be DENIED without prejudice and with leave to refile.

19 **DATED:** July 15, 2014.

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22 **UNITED STATES MAGISTRATE JUDGE**  
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